

**TO: THE CHIEF EXECUTIVE OR MANAGING OFFICER AND CHAIRMAN  
OF THE SUPERVISORY COMMITTEE OF EACH LOUISIANA STATE-  
CHARTERED CREDIT UNION**

**FROM: SID SEYMOUR, CHIEF EXAMINER**

**DATE: FEBRUARY 1, 2005**

**RE: OFI UPDATE**

---

**Regulatory Updates**—I will continue to keep you informed through the issuance of periodic publications. These updates may be viewed or retrieved from OFI's website at [www.ofi.state.la.us](http://www.ofi.state.la.us). If you wish to change the email address that receives these updates, please contact this office. The following policy and rules, were recently updated:

- **Repossession Agents**—*LAC 10:XV.1301-1321 effective December 20, 2004*
- **Limitations on Investments in Premises and Fixed Assets**—*LAC 10:I.1101 effective November 20, 2004*
- **Enforcement actions**—*Policy No. DI-02-2004 dated September 17, 2004*

**Allowable expense reimbursement for credit union officials**—In OFI Bulletin BL-08-2003, issued on October 31, 2003, we clarified the intent of the Louisiana Credit Union Law with respect to allowable expense reimbursement for credit union officials (directors, credit committee, or supervisory committee members) while away from work attending training conferences, seminars, or other credit union functions. Examiners will be expanding the scope of their review to ensure that such expenses are properly approved and supported by appropriate documentation. Examiners will also be meeting with the Supervisory Committee to discuss their duties and responsibilities. If you have any questions, please contact Deputy Chief Examiner J. D. Fields at (225) 922-0633.

**Incomplete SARs**—In recent SARs filed by state-chartered depository institutions, we have noted that some are not responding to Item 39 of the SAR Form, which asks if the institution's bonding company has been notified. You are reminded of the requirement of the NCUA Rules and Regulations, Part 748.1(c), which require a credit union to complete the SAR in accordance with the instructions accompanying the SAR.

In correspondence dated February 17, 2003, you were notified that we were experiencing problems that limit our ability to report egregious violations to the Attorney General or to the local District Attorney if the information was obtained through the FinCEN System. As a result, this office will continue to contact you if it is necessary for you to submit copies of certain SARs filed through FinCEN directly to this office. We may then submit a copy of the SAR to the appropriate state authority pursuant to LSA-R.S. 6:121.1(C)

**Money Transmitters** — Beginning in 2005, the supervision and regulation of money transmitters was transferred from the nondepository division to the depository division. Also starting this year, these entities will be examined for compliance with BSA. If you have any questions regarding these licensees, please contact Deputy Chief Examiner Joe Gardner at (225) 925-4673 or by email at [jgardner@ofi.state.la.us](mailto:jgardner@ofi.state.la.us).

**BSA Procedures for Money Services Businesses (MSBs)** — An important part of proper due diligence for account relationships with MSBs should include verifying that the business has met state licensing requirements and is registered with FinCEN. You may verify that an MSB is registered with FinCEN by obtaining a copy of the filing directly from the MSB or checking the status online at [www.msb.gov](http://www.msb.gov). To verify that an MSB is properly licensed by this office, you may check online at [www.ofi.state.la.us](http://www.ofi.state.la.us) or contact Administrative Specialist Donna Montagnino at (225) 925-4483 or by email at [dmontagnino@ofi.state.la.us](mailto:dmontagnino@ofi.state.la.us). The OCC recently sent out guidance to national banks on dealing with money services business (MSB) customers in Advisory Letter 2004-7 that you may find helpful.

If a financial institution suspects that a customer is an unlicensed or unregistered MSB, it should file a SAR **and** notify Deputy Chief Examiner Joe Gardner. The institution should also carefully consider the risks of providing services to such an entity. In addition to considering risk to its reputation, the institution should consider the type of activity in the account (e.g., cash transactions or international wires), patterns of activity (e.g., whether it reflects an ongoing fraud or other criminal activity), and the volume of activity and transaction amounts.

As a reminder, you are required by Louisiana Law to verify that businesses involved in the sale of checks or money transmission (defined and described in LSA-R.S. 6:1032 and 1033) are properly licensed by this office pursuant to LSA-R.S. 6:1052(A).

**Appraisal of Commercial Real Estate Collateral and Supervisory Loan-to-Value Requirements**

Recently, we noted that an appraisal on collateral securing a commercial real estate loan contained a market value that included separate components of value for real property and a “going concern” allocation. In general, federal guidelines require that any value associated with “intangible assets” cannot be recognized as a portion of the “market value” in determining compliance with supervisory loan-to-value (LTV) requirements established by federal regulations<sup>1</sup>.

It is important that management reviews appraisals on commercial real estate collateral to ensure that it does not incorrectly include separate components of value for real property and a “going concern” allocation. If the “going concern” allocation is included, management may have to adjust the appraised value of the real estate collateral in determining compliance with supervisory LTV requirements. If you have any questions, you may contact Deputy Chief Examiner John Fields at (225) 922-0633 or by email at [jfields@ofi.state.la.us](mailto:jfields@ofi.state.la.us).

**Annual Reminders:**

**Supervisory Committee Audit Report**

The enclosed forms are to be completed -- returning an original, properly executed form to this office. **You should use the enclosed forms and dispose of any forms you have on hand from previous years.** A copy should be retained in the files of the credit union. The audit and verification of accounts must fully meet the requirements set forth in Part 715 of the NCUA’s Rules and Regulations, as made applicable to

---

<sup>1</sup> Part 723.7 of the NCUA’s Rules and Regulations.

federally-insured state-chartered credit unions by Section 741.202 of those same regulations. It is the responsibility of the Supervisory Committee to ensure that the completion of the annual audit is timely, that generally accepted auditing procedures are used, that an adequate audit of the credit union's records is made, and that the Audit Report is promptly prepared and presented to the Board. **The Audit Report should be completed by March 31, 2005.** Additional time may be allowed if an external audit is being performed. The credit union **must** contact this office, in writing, for an extension of time to complete the audit. The Supervisory Committee is also responsible for the **preparation and maintenance** of workpapers used to support each audit and should discuss any deficiencies and/or unreconciled accounts in its audit report. If the Supervisory Committee fails to conduct a proper audit, the credit union may be required to have the audit re-done by a certified public accountant. **Serious and persistent recordkeeping problems could result in the credit union having to provide an opinion audit, which is both expensive and time-consuming.**

#### **Director's Oath Forms**

A director's oath form must be executed by each director elected by your members at its annual meeting in compliance with the provisions of LSA-R.S. 6:648 relating to the duties and responsibilities of directors. These forms are available on OFI's web site at [www.ofi.state.la.us](http://www.ofi.state.la.us).

#### **2005 Holiday Schedule**

Once a 2005 holiday schedule has been approved, please forward a copy of the board resolution relating to the schedule to this office. If your Board **does not** approve a holiday schedule, you must notify OFI **each time** the institution closes for a holiday. LSA-R.S. 6:128 contains the specific requirements regarding this notification.

#### **Record Retention Schedule**

Enclosed is OFI's revised 2005 Record Retention Schedule. Questions should be directed to Deputy Chief Examiner Joe Gardner at (225) 925-4673 or by email at [jgardner@ofi.state.la.us](mailto:jgardner@ofi.state.la.us).

**Response to the following item is requested (even if there are no changes from last year). Please ensure that the attached document is distributed to the appropriate person within the institution and a timely response is submitted to this office. No specific "as of" date is required. Just provide the most current information possible. DEADLINE: February 28, 2005.**

#### **Annual Questionnaire**

Review the information and make any additions, deletions, or revisions on the enclosed form. Questions should be directed to Administrative Specialist Pam Skelton at (225) 925-4661 or by email at [pskelton@ofi.state.la.us](mailto:pskelton@ofi.state.la.us) or Administrative Specialist Donna Montagnino at (225) 925-4483 or by email at [dmontagnino@ofi.state.la.us](mailto:dmontagnino@ofi.state.la.us).

Your cooperation is appreciated. Please do not hesitate to contact this office if you have any questions.

Enclosures